

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

RICHARD MITCHELL, et al.,

Plaintiff,

v.

OFFICER O. QUINTANILLA, et al.,

Defendants.

Case No. 2:22-cv-01827-ART-BNW

ORDER

Pro se Plaintiff Richard Mitchell brings this action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated in the custody of the Nevada Department of Corrections (“NDOC”). Pending before the Court is Mitchell’s motion for judgment (ECF No. 60), which the Court denies without prejudice as premature.

In March 2023, this Court issued a screening order allowing Mitchell’s Eighth Amendment claim to proceed. (ECF No. 9.) In January 2024, the Court granted Mitchell’s motion for appointment of counsel. (ECF No. 42.) In October 2024, Mitchell filed a motion for judgment. (ECF No. 60.) Defendants opposed the motion, arguing that it should be denied for failure to provide points and authorities and because it is premature. (ECF No. 66.) Since then, the Court extended discovery deadlines and then stayed the case upon Mitchell’s request while the Federal Court Pro Bono Program attempts to locate pro bono counsel. (ECF Nos. 68, 73, 82.)

The Court finds that Mitchell’s motion is premature. Although Rule 56 allows a party to file a motion for summary judgment “at any time until 30 days after the close of all discovery,” it also allows courts to deny the motion or order a continuance for the opposing party to pursue discovery. Fed. R. Civ. P. 56. *See also Burlington N. Santa Fe R. Co. v. Assiniboine & Sioux Tribes of Fort Peck Rsrv.*,

1 323 F.3d 767, 773 (9th Cir. 2003) (noting that when “a summary judgment  
2 motion is filed so early in the litigation, before a party has had any realistic  
3 opportunity to pursue discovery relating to its theory of the case,” the district  
4 court should grant requests by non-movants to take discovery prior to  
5 considering the motion for summary judgment). Here, the parties have not  
6 engaged in discovery and the case is stayed. Accordingly, Mitchell’s motion is  
7 premature.

8 The Court therefore denies Mitchell’s motion (ECF No. 60) without  
9 prejudice.

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11 DATED: June 26, 2025



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13 ANNE R. TRAUM  
14 UNITED STATES DISTRICT JUDGE  
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